IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 23RD NOVEMBER 2007 / 2ND AGRAHAYANA 1929

ST.Rev..No. 59 of 2004

(TA.No.582/2002 OF KERALA SALES TAX APPELLATE TRIBUNAL, ADDL.BENCH-II, ERNAKULAM (ORDER DATED 26-2-2003)

.....

PETITIONER/APPELLANT:

M/S. HARRISONS MALAYALAM LIMITED,
WILLINGDON ISLAND,
KOCHI-682 003,
REPRESENTED BY ITS COMPANY SECRETARY, MR.P.A.KRISHNAMOORTHY.

BY ADV. SRI.ANIL.D.NAIR
SRI.E.K.NANDAKUMAR
SRI.A.K.JAYASANKAR NAMBIAR
SMT.PRIYA MAHESH
SMT.PRIYA MANJOORAN

RESPONDENT: RESPONDENT:

STATE OF KERALA.

BY SPECIAL GOVERNMENT PLEADER SRI.VINOD CHANDRAN.

THIS SALES TAX REVISION HAVING BEEN FINALLY HEARD ON 23/11/2007, ALONG WITH STRV NO. 71 OF 2004 THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

H.L.DATTU, C.J. & K.M.JOSEPH, J.

S.T.Rev.Nos.59 of 2004 & 71 of 2004

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Dated, this the 23rd day of November, 2007

ORDER

H.L.Dattu, C.J.

Since common questions of law are involved in both these revision petitions, they are clubbed, heard and disposed of by this common order.

(2). The assessee in both these revision petitions is common. In these revision petitions we are concerned with the assessment orders for the assessment years 1986-87 and 1985-86 respectively. The assessee being aggrieved by the orders passed by the Sales Tax Appellate Tribunal in T.A.No.582 of 2002 and T.A.No.581 of 2002 dated 26-2-2003 has filed these revision petitions.

(3). The assessee has framed the following questions of law for our consideration and decision. They are as under:

> *"(i). Whether in the facts and circumstances of the case the Hon'ble Tribunal was right in law in finding that the levy of tax on the cess portion of the purchase turnover was justified especially when planters like the Petitioner are not liable to pay cess under the Rubber Act?*
>
> *(ii). Whether in the facts and circumstances of the case the Hon'ble Tribunal was right in law in coming to the conclusion that the case of the Petitioner was covered by the decision of the Supreme Court in the case of State of Kerala Vs. Madras Rubber Factory in (1998) 6 KTR 118?*

(4). The questions of law framed by the assessee is no more debatable in view of the law declared by this Court in the case of ***State of Kerala Vs. The Travancore Rubber & Tea Co. Ltd. ({2005} 13 KTR 209 (Ker.)*** and in the case of ***The Cochin Malabar Estates and Industries Limited Vs. State of Kerala (TRC.No.116 of 2000 dated 8th August, 2007)***.

(5). In view of the law declared by this Court in the above-said decisions, the questions of law framed by the assessee requires to be answered against the assessee and in favour of the Revenue.

Ordered accordingly.

(H.L.DATTU)
CHIEF JUSTICE

(K.M.JOSEPH)
JUDGE

MS